

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 398

Introduced by Senator Romero

February 20, 2003

~~An act to add Part 11.5 (commencing with Section 2693.1) to Division 2 of the Labor Code, relating to employment. An act to amend Sections 1812.501, 1812.502, 1812.524, 1812.525, 1812.526, 1812.527, 1812.528, 1812.529, 1812.530, 1812.531, 1812.532, and 1812.533 of the Civil Code, and to add Section 1264.1 to, and to repeal and add Chapter 2.3 (commencing with Section 1400) of Division 2 of, the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 398, as amended, Romero. Health care referral agencies.

~~Existing law requires health care referral agencies to obtain a license to operate in this state and to refer persons for remuneration to certain health care facilities, with additional requirements for licensure.~~

~~This bill would require a health care referral agency that has its principal place of business located outside this state to obtain a license to refer workers to a covered facility in this state, as defined, from the Department of Industrial Relations and provides for an application, renewal, and revocation process for these licenses, and for civil penalties for certain violations.~~

~~(1) The Employment Agency, Employment Counseling, and Job Listing Services Act provides for the licensing and regulation of employment agencies, including nurses' registries.~~

~~This bill would expressly include within the act's definition of "employment agency" a referral agency. The bill would define a referral agency as a private agency that engages in the business of~~

referring workers to a general acute care hospital, acute psychiatric hospital, or other acute care facility, or an extended care facility, skilled nursing facility, or intermediate care facility, or a distinct part of a facility providing extended care services, skilled nursing care, or intermediate care, that is located in this state.

The bill would provide that unless otherwise provided in the act, a referral agency shall not be required to comply with certain general requirements applicable to employment agencies, but instead would be required to comply with specific requirements applicable to nurses' registries.

(2) Existing law provides that the act does not apply to any person who provides services otherwise covered under the act who charges fees exclusively to employers for those services.

This bill would provide, instead, that the act shall apply to all nurses' registries and referral agencies whether or not they charge fees exclusively to employers.

(3) Existing law requires a nurses' registry to maintain a bond issued by an admitted surety company and to file that bond with the Secretary of State, or to make a specified deposit in lieu of a bond.

Existing law prohibits various activities related to false, misleading, or deceptive advertisements and representations by a nurses' registry, specifies requirements for advertisements, and requires a nurses' registry to maintain a record of all advertisements.

Existing law specifies various requirements of a nurses' registry with respect to continuing care contracts, distribution of a fee schedule and payment terms, verification of jobseeker qualifications, maintenance of log sheets and other records, and fee prohibitions.

This bill would apply these provisions to a referral agency.

(4) Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is a crime.

This bill would prohibit a health facility from using an employee on a temporary basis when a permanent employee is available to work. The bill would require a health facility that uses an employee on a temporary basis to evaluate the employee, as prescribed, and provide a designated orientation.

Because the bill would add to the requirements of a health facility, a violation of which would be a crime, it would impose a state-mandated local program.



(5) Existing law provides for the licensure and regulation by the department of referral agencies that refer, or of a person who refers, any person for remuneration to any extended care, skilled nursing home, or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care.

This bill would repeal these, and enact similar, licensing provisions. The bill would require licensure of a referral agency to refer a worker to a “covered facility,” as defined, to include those health facilities described in (1).

This bill would provide that a referral agency that is required to be licensed by this bill may not refer a worker who is required to be licensed or certified by the laws of this state to a covered facility without ~~providing certain information to the Department of Industrial Relations and the appropriate licensing or certifying agency, at least 10 days prior to the referral of~~ ensuring that the worker is licensed or certified.

~~This bill would also provide that certain health care facilities and other health care related employers, as specified, may not employ a worker referred by an unlicensed referral agency that is required to be licensed by this bill.~~

This bill would require, prior to referring a worker, other than a certified or licensed health care practitioner, to a covered facility on a temporary basis, a referral agency to ensure that a background check is conducted for unprofessional conduct, conviction of a felony or any offense substantially related to the worker’s qualifications, functions, and duties, and other conduct.

The bill would specify administrative and civil penalties for violating these referral agency licensure and regulatory provisions.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Part 11.5 (commencing with Section 2693.1) is~~
2

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Health care referral agencies are being used to provide*
4 *temporary workers to health facilities in California.*

5 *(b) Permanent employees have been shown by experience to be*
6 *superior to temporary employees in the health care setting.*

7 *(c) Overuse of temporary employees results in higher costs to*
8 *California's system of health care delivery, disrupts continuity of*
9 *care, and negatively affects quality of health care.*

10 *SEC. 2. (a) It is the intent of the Legislature in enacting this*
11 *act that health care referral agencies be licensed and regulated by*
12 *the state to ensure that all Californians are provided competent*
13 *and qualified health care personnel, that the agencies are*
14 *reputable businesses that follow lawful business and employment*
15 *practices, and that all health care facilities be given the*
16 *information they need to make informed choices about the*
17 *qualifications of health care workers referred by referral agencies.*

18 *(b) It is further the intent of the Legislature in enacting this act*
19 *that temporary employees should be used only when necessary,*
20 *and to the extent that temporary employees are used, they should*
21 *be evaluated for competency at least as often as permanent*
22 *employees.*

23 *SEC. 3. Section 1812.501 of the Civil Code is amended to*
24 *read:*

25 1812.501. (a) The term "employment agency" or "agency"
26 means:

27 (1) Any person who, for a fee or other valuable consideration
28 to be paid, directly or indirectly by a jobseeker, performs, offers
29 to perform, or represents it can or will perform any of the
30 following services:

31 (A) Procures, offers, promises, or attempts to procure
32 employment or engagements for others or employees for
33 employers.

34 (B) Registers persons seeking to procure or retain employment
35 or engagement.

36 (C) Gives information as to where and from whom this help,
37 employment, or engagement may be procured.

38 (D) Provides employment or engagements.

1 The term “employment agency” or “agency” shall not mean
2 or include any employment counseling service or any job listing
3 service.

4 (2) Any person who offers, as one of its main objects or
5 purposes, to procure employment for any person who will pay for
6 its services, or that collects dues, tuition, or membership or
7 registration fees of any sort, where the main object of the person
8 paying the same is to secure employment.

9 (3) Any person who, for a fee or other valuable consideration,
10 procures, offers, promises, provides, or attempts to procure
11 babysitting or domestic employment for others or domestics or
12 babysitters for others.

13 (b) (1) The term “employment counseling service” means
14 any person who offers, advertises, or represents it can or will
15 provide any of the following services for a fee: career counseling,
16 vocational guidance, aptitude testing, executive consulting,
17 personnel consulting, career management, evaluation, or
18 planning, or the development of resumés and other promotional
19 materials relating to the preparation for employment. The term
20 “employment counseling service” shall not mean or include
21 persons who provide services strictly on an hourly basis with no
22 financial obligation required of the consumer beyond the hourly
23 fee for services rendered. An “employment counseling service”
24 does not include the functions of an “employment agency” as
25 defined in subdivision (a).

26 (2) The term “employment counseling service” does not
27 include:

28 (A) Businesses ~~which~~ *that* are retained by, act solely on behalf
29 of, and are compensated solely by prior or current employers
30 ~~which and that~~ do not require any “customer” to sign a contract
31 and do not in any way hold any “customer” liable for fees.

32 (B) Any provider of vocational rehabilitation in which the
33 counseling services are paid for by insurance benefits, where the
34 counseling is provided as a result of marital dissolution or
35 separation proceedings to prepare one of the spouses for reentry
36 into the job market and where the fees are paid by some party other
37 than the person receiving the counseling services.

38 The exemption provided in this subparagraph does not apply to
39 any vocational rehabilitation counselor who receives any

1 payments directly from the individual customer receiving the
2 counseling.

3 (C) Any person who engages solely in the preparation of
4 resumés and cover letters, provided that the resumé writing service
5 does not advertise or hold itself out as offering other job seeking
6 or placement services and does not charge more than three hundred
7 dollars (\$300) for any resumé, cover letter, or combination of both
8 to any single customer in any individual transaction.

9 (D) Any public educational institution.

10 (E) Any private educational institution established solely for
11 educational purposes ~~which~~ *that offers*, as a part of its curriculum,
12 ~~offers~~ employment counseling to its student body and ~~which~~
13 ~~institution~~ *that* conforms to the requirements of Article 4
14 (commencing with Section 94760) of Chapter 7 of Part 59 of the
15 Education Code.

16 (F) A psychologist or psychological corporation licensed
17 pursuant to Chapter 6.6 (commencing with Section 2900) of
18 Division 2 of the Business and Professions Code, providing
19 psychological assessment, career or occupational counseling, or
20 consultation and related professional services within their scope of
21 practice.

22 (G) Educational psychologists licensed pursuant to Article 5
23 (commencing with Section 4986) of Chapter 13 of Division 2 of
24 the Business and Professions Code, providing counseling services
25 within their scope of practice.

26 (c) The term “job listing service” means any person who
27 provides, offers, or represents it can or will provide any of the
28 following services, for a fee or other valuable consideration to be
29 paid, directly or indirectly, by the jobseeker in advance of, or
30 contemporaneously with, performance of these services: ~~matches~~
31 *matching* jobseekers with employment opportunities, providing or
32 offering to provide *to* jobseekers lists of employers ~~or~~, lists of job
33 openings, or like publications, or preparing resumés or lists of
34 jobseekers for distribution to potential employers.

35 (d) (1) A “nurses’ registry” as defined in subdivision (b) of
36 Section 1812.524 is an employment agency. However, unless
37 otherwise provided for in this title, a nurses’ registry shall not be
38 required to comply with Chapter 2 (commencing with Section
39 1812.503) regulating employment agencies but, instead, shall be



1 required to comply with Chapter 7 (commencing with Section
2 1812.524).

3 (2) A “referral agency” as defined in subdivision (d) of Section
4 1812.524 is an employment agency. However, unless otherwise
5 provided for in this title, a referral agency shall not be required to
6 comply with Chapter 2 (commencing with Section 1812.503)
7 regulating employment agencies but, instead, shall be required to
8 comply with Chapter 7 (commencing with Section 1812.524).

9 (3) Notwithstanding subdivision (a) of Section 1812.502, this
10 title shall apply to all nurses’ registries and referral agencies
11 whether or not they charge fees exclusively to employers.

12 (e) “Jobseeker” means a person seeking employment.

13 (f) “Employer” means any individual, company, partnership,
14 association, corporation, agent, employee, or representative for
15 whom or for which an employment agency or job listing service
16 attempts to obtain an employee or to place a jobseeker.

17 (g) “Job order” means any written or oral instruction,
18 direction, or permission granted by an employer or its agent to an
19 employment agency or job listing service to refer jobseekers for
20 a specified job.

21 (h) “Domestic agency” means any agency that provides, or
22 attempts to provide, employment by placement of domestic help
23 in private homes.

24 (i) “Deposit” means any money or valuable consideration
25 received by an employment agency or job listing service from a
26 jobseeker for referring the jobseeker to a position of employment
27 prior to the jobseeker’s acceptance of a position.

28 (j) “Fee” means:

29 (1) Any money or other valuable consideration paid, or
30 promised to be paid, for services rendered or to be rendered by any
31 person conducting an employment agency, employment
32 counseling service, or job listing service under this title.

33 (2) Any money received by any person in excess of that which
34 has been paid out by him or her for transportation, transfer of
35 baggage, or board and lodging for any applicant for employment.

36 (k) “Registration fee” means any charge made, or attempted to
37 be made, by an employment agency for registering or listing an
38 applicant for employment, for letter writing, or any charge of a like
39 nature made, or attempted to be made without having a bona fide
40 order for the placement of the applicant in a position.

1 (l) “Person” means any individual, corporation, partnership,
2 limited liability company, trust, association, or other organization.

3 (m) This section shall become operative on January 1, 1997.

4 *SEC. 4. Section 1812.502 of the Civil Code is amended to*
5 *read:*

6 1812.502. (a) ~~This~~ *Except as provided in paragraph (3) of*
7 *subdivision (d) of Section 1812.501, this title does not apply to any*
8 *person who provides any of the services described in subdivision*
9 *(a) of Section 1812.501 and who charges fees exclusively to*
10 *employers for those services. The exemption from regulation*
11 *provided by this subdivision does not apply to any person who*
12 *provides babysitting or domestic employment for others. This*
13 *subdivision does not apply to an employment counseling service*
14 *as defined in subdivision (b) of Section 1812.501.*

15 (b) This title shall not apply to any nonprofit corporation,
16 organized for the purpose of economic adjustment, civic
17 betterment, and the giving of vocational guidance and placement
18 to its members, or others, including employment counseling
19 services, when all of the following conditions exist:

20 (1) None of the directors, officers, or employees thereof
21 receive any profit other than a nominal salary for services
22 performed for the organization or corporation.

23 (2) No fee is charged for those services, though a voluntary
24 contribution may be requested.

25 (3) Membership dues or fees charged are used solely for
26 maintenance of the organization or corporation.

27 (c) Nothing in this title shall apply to a nonprofit corporation
28 ~~which~~ *that* has been formed in good faith for the promotion and
29 advancement of the general professional interests of its members
30 and ~~which~~ *that* maintains a placement service principally engaged
31 in securing employment for ~~such~~ *those* members with the state or
32 any county, city, district, or other public agency under contracts
33 providing employment for one year or longer, or any nonprofit
34 corporation exempted by subdivision (b).

35 (d) This title shall not apply to a labor organization as defined
36 in Section 1117 of the Labor Code, a newspaper of general
37 circulation, bona fide newsletter, magazine, trade, or professional
38 journal, or other publication of general circulation, the main
39 purpose of which is dissemination of news, reports, trade or
40 professional information, or information not intended to assist in

1 locating, securing, or procuring employment or assignments for
2 others.

3 (e) As used in this title, “employment agency” or “agency”
4 does not include a nursing school, business school, or vocational
5 school, except that if ~~such a~~ *the* school charges a fee for placement,
6 the school shall be an employment agency within the meaning of
7 this title.

8 (f) (1) A job listing service ~~which~~ *that* meets the requirements
9 specified in paragraph (2) or (3) shall not be subject to any of the
10 following: Sections 1812.515, 1812.516, 1812.517, and
11 1812.518; subdivisions (a) and (b), and paragraph (3) of
12 subdivision (c), and subdivision (d) of Section 1812.519;
13 paragraph (2) of subdivision (b), and subdivisions (c), (d), (e), and
14 (f) of Section 1812.520; and Section 1812.521.

15 (2) A job listing service shall be exempt pursuant to paragraph
16 (1) if it complies with all of the following:

17 (A) Does not provide, offer, or imply the offer of, services
18 related to employment.

19 (B) Does not offer or sell lists of employers or job openings to
20 jobseekers on an in-person basis.

21 (C) Maintains records of all its advertisements, identified by
22 date and publication, and the sources of information used for the
23 preparation of lists of employers and job openings, from which can
24 be determined the accuracy of any statistics regarding success rate
25 or similar statistics used in its advertising, promotional materials,
26 or oral or written statements to jobseekers.

27 (D) Identifies, on each list of employers and job openings, its
28 general source of information for jobs included on that list when
29 the source of information is a publication or other public record.

30 (E) Provides, at or before the time of delivery of the list, a
31 prominent written statement to the jobseeker granting the
32 jobseeker a right to return the list for an immediate refund of the
33 purchase price during a stated period of time which expires not less
34 than 10 days from the date of delivery of the list. The list shall be
35 deemed returned upon delivery to the address from which it was
36 obtained or upon deposit in the mail properly addressed to that
37 address, with postage prepaid.

38 (3) A job listing service shall be exempt pursuant to paragraph
39 (1) if it complies with all of the following:

1 (A) A majority interest in the job listing service is owned by
2 one or more colleges or universities, or alumni associations
3 affiliated therewith, and each college or university is accredited by
4 both (i) an accrediting agency recognized as such by the United
5 States Department of Education and (ii) a member organization of
6 the Council of Postsecondary Accreditation.

7 (B) The job listing service provides services related to
8 employment exclusively for jobseekers who are the alumni of
9 colleges or universities specified in subparagraph (A).

10 (C) The job listing service does not require, as a condition to
11 receiving employment services, that the applicant have completed
12 courses or examinations beyond the requirements for graduation
13 from the college or university specified in subparagraph (A).

14 (D) More than 50 percent of the annual revenues received by
15 the job listing service are derived from paid subscriptions of
16 prospective employers.

17 *SEC. 5. Section 1812.524 of the Civil Code is amended to*
18 *read:*

19 1812.524. (a) “Nursing service” means the assignment of a
20 nurse, as a private duty, self-employed, licensed registered nurse,
21 licensed vocational nurse, or practical nurse to render service to a
22 patient under the direction or supervision of a physician or surgeon
23 registered to practice in this state.

24 (b) “Nurses’ registry” means a person who engages in the
25 business of obtaining and filling commitments for nursing service.
26 A nurses’ registry which makes or plans to make referrals for
27 nurses’ employment other than private duty nursing shall comply
28 with Chapters 1 (commencing with Section 1812.500) and 2
29 (commencing with Section 1812.503) of this title with respect to
30 those referrals.

31 (c) “Private duty nurse” means a self-employed nurse
32 rendering service in the care of either a physically or mentally ill
33 patient under the direction of a physician or surgeon, but who is
34 paid by either the patient or the designated agent of the patient and
35 who accepts the responsibilities of a self-employed private
36 contractor.

37 (d) “Referral agency” means a private, for-profit or nonprofit,
38 agency that is engaged in the business of referring workers to a
39 general acute care hospital, acute psychiatric hospital, or other
40 acute care facility, or an extended care facility, a skilled nursing

1 *facility, or an intermediate care facility, or a distinct part of a*
 2 *facility providing extended care, skilled nursing care, or*
 3 *intermediate care that is located in this state. A referral agency*
 4 *that makes or plans to make referrals for employment other than*
 5 *private duty nursing shall comply with Chapter 1 (commencing*
 6 *with Section 1812.500) and Chapter 2 (commencing with Section*
 7 *1812.503) with respect to those referrals.*

8 *SEC. 6. Section 1812.525 of the Civil Code is amended to*
 9 *read:*

10 1812.525. (a) Every nurses' registry *and referral agency*
 11 subject to this title shall maintain a bond issued by a surety
 12 company admitted to do business in this state. The principal sum
 13 of the bond shall be three thousand dollars (\$3,000). A copy of the
 14 bond shall be filed with the Secretary of State.

15 (b) The bond required by this section shall be in favor of, and
 16 payable to, the people of the State of California, and shall be
 17 conditioned that the person obtaining the bond will comply with
 18 this title and will pay all sums due any individual or group of
 19 individuals when the person or his or her representative, agent, or
 20 employee has received those sums. The bond shall be for the
 21 benefit of any person or persons damaged by any violation of this
 22 title or by fraud, dishonesty, misstatement, misrepresentation,
 23 deceit, unlawful acts or omissions, or failure to provide the
 24 services of the nurses' registry *or referral agency* in performance
 25 of the contract with the ~~nurse~~ *jobseeker* by the nurses' registry *or*
 26 *referral agency*, or its agents, representatives, or employees while
 27 acting within the scope of their employment.

28 (c) (1) No nurses' registry *or referral agency* shall conduct any
 29 business without having a current surety bond in the amount
 30 prescribed by this title and filing a copy of the bond with the
 31 Secretary of State.

32 (2) Thirty days prior to the cancellation or termination of any
 33 surety bond required by this section, the surety shall send a written
 34 notice of that cancellation or termination to both the nurses'
 35 registry *or referral agency* and the Secretary of State, identifying
 36 the bond and the date of cancellation or termination.

37 (3) If any nurses' registry *or referral agency* fails to obtain a
 38 new bond and file a copy of that bond with the Secretary of State
 39 by the effective date of the cancellation or termination of the
 40 former bond, the nurses' registry *or referral agency* shall cease to

1 conduct any business unless and until a new surety bond is
2 obtained and a copy of that bond is filed with the Secretary of State.

3 (d) When a deposit has been made in lieu of a bond pursuant to
4 Section 995.710 of the Code of Civil Procedure, the person
5 asserting a claim against the deposit shall, in lieu of Section
6 996.430 of the Code of Civil Procedure, establish the claim by
7 furnishing evidence to the Secretary of State of a money judgment
8 entered by a court together with evidence that the claimant is a
9 person described in subdivision (b).

10 (e) When a person has established the claim with the Secretary
11 of State, the Secretary of State shall review and approve the claim
12 and enter the date of approval on the claim. The claim shall be
13 designated an “approved claim.”

14 (f) When the first claim against a particular deposit has been
15 approved, it shall not be paid until the expiration of a period of 240
16 days after the date of its approval by the Secretary of State.
17 Subsequent claims that are approved by the Secretary of State
18 within the same 240-day period shall similarly not be paid until the
19 expiration of the 240-day period. Upon the expiration of the
20 240-day period, the Secretary of State shall pay all approved
21 claims from that 240-day period in full unless the deposit is
22 insufficient, in which case each approved claim shall be paid a pro
23 rata share of the deposit.

24 (g) When the Secretary of State approves the first claim against
25 a particular deposit after the expiration of a 240-day period, the
26 date of approval of that claim shall begin a new 240-day period to
27 which subdivision (f) shall apply with respect to the amount
28 remaining in the deposit.

29 (h) After a deposit is exhausted, no further claims shall be paid
30 by the Secretary of State. Claimants who have had their claims
31 paid in full or in part pursuant to subdivisions (f) and (g) shall not
32 be required to return funds received from the deposit for the
33 benefit of other claimants.

34 (i) When a deposit has been made in lieu of a bond, the amount
35 of the deposit shall not be subject to attachment, garnishment, or
36 execution with respect to an action or judgment against the nurses’
37 registry *or referral agency*, other than as to an amount as no longer
38 needed or required for the purpose of this title that would otherwise
39 be returned to the nurses’ registry *or referral agency* by the
40 Secretary of State.

(j) (1) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a nurses' registry *or referral agency* or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice to the Secretary of State shall include all of the following: ~~(1) name~~

(A) Name, address, and telephone number of the ~~assignor~~; ~~(2) name assignor~~.

(B) Name, address, and telephone number of the bank at which the deposit is ~~located~~; ~~(3) account located~~.

(C) Account number of the ~~deposit~~; and ~~(4) a deposit~~.

(D) A statement whether the assignor is ceasing to engage in the business of a nurses' registry *or referral agency* or has filed a bond with the Secretary of State. ~~The~~

(2) The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 7. *Section 1812.526 of the Civil Code is amended to read:*

1812.526. Nurses' registries may enter into a continuing contract with private duty nurses covering the assignment of those nurses by the nurses' registries *or referral agencies*. The continuing contract shall ~~state~~ *include all of the following*:

- 1 (a) The name, address, and telephone number of the nurses’
2 registry *or referral agency*.
- 3 (b) The name, address, and telephone number of the nurse.
- 4 (c) The current fee schedule of the nurses’ registry *or referral*
5 *agency*.
- 6 (d) The date of its execution by the nurses’ registry *or referral*
7 *agency* and the nurse.
- 8 (e) The contract shall specify that the provisions thereof are to
9 govern only the assignment of private duty nurses and shall do all
10 of the following:
- 11 (1) Designate the nurses’ registry *or referral agency* as the
12 continuous agent of the nurse for purposes of assignment.
- 13 (2) Provide that the contract in effect may be terminated at any
14 time by written notice given by one to the other for any future
15 assignment.
- 16 (3) Provide for delivery to the nurse at the time of the execution
17 of the contract a written schedule of the rates of nurses’ charges
18 currently agreed to between the nurses’ registry *or referral agency*
19 and the nurse for the nurse’s services to the patient.
- 20 (4) State that the nurses’ registry *or referral agency* will
21 immediately notify the nurse in writing of all subsequent changes
22 in the rates to be charged the patient for services, and that the nurse
23 shall agree to abide by these rates.
- 24 (5) Contain express undertakings by the nurses’ registry *or*
25 *referral agency* that it shall continuously maintain true and correct
26 records of orders and assignments as provided in this title.
- 27 (6) Provide that the nurses’ registry *or referral agency* shall
28 periodically and at least once each month render to the nurse a
29 written statement of all fees claimed to be due the nurses’ registry
30 *or referral agency*, and further that the statement shall adequately
31 identify each assignment as to the inception date and period of
32 service covered by the claim, including the name of the patient and
33 the amount of service fee claimed.
- 34 (7) Contain appropriate wording advising the nurse of his or
35 her right to dispute the correctness of any service fee claimed by
36 the nurses’ registry *or referral agency* in the written statement
37 referred to above, and that in the absence of objections within a
38 reasonable time, ~~any such~~ *the* service fee may be presumed to be
39 correctly charged.



(8) Include any other term, condition, or understanding agreed upon between the nurses' registry *or referral agency* and the nurse.

(f) Each contract shall be numbered consecutively in original and duplicate, both to be signed by the nurse and the nurses' registry *or referral agency*. The original shall be given to the nurse and the duplicate shall be kept on file at the nurses' registry *or referral agency* within the nurse's records.

(g) The full agreement between the parties shall be contained in a single document containing those elements set forth in this section.

SEC. 8. *Section 1812.527 of the Civil Code is amended to read:*

1812.527. (a) (1) A nurses' registry *or referral agency* shall provide a copy of ~~the registry's~~ *its* fee schedule and payment terms to any ~~nurse~~ *jobseeker* from whom a fee or deposit is to be received, prior to the ~~nurse~~ *jobseeker* being interviewed by the registry *or referral agency*.

(2) In the schedule, the maximum fee shall be fixed and shall include the charges of every kind rendered by the nurses' registry *or referral agency* in each case or transaction on behalf of the ~~nurse~~ *jobseeker*. Changes in the fee schedule may be made, but no change shall become effective until posted for not less than seven days in a conspicuous place in the nurses' registry *or referral agency*.

(3) A copy of the schedule in effect shall be kept posted in the nurses' registry *or referral agency* in a conspicuous place, and the posted schedule and the changes therein shall be in lettering or printing of not less than standard pica capitals. The date of the taking effect of the schedule and of each change therein shall appear on the posted copies.

(4) A copy of all fee schedules, and of all changes therein, shall be kept on file at the nurses' registry *or referral agency*, retrospectively for a period of one year.

(b) *A nurses' registry or referral agency shall periodically and at least once each month render to a referred worker a written statement of the fees received by the nurses' registry or referral agency for that worker's work, including an hourly rate.*

SEC. 9. *Section 1812.528 of the Civil Code is amended to read:*

1 1812.528. It shall be the duty of the nurses' registry *or referral*
2 *agency* to verify in writing the claims as to the experience or
3 training listed on the application and to keep a file of those records
4 in the ~~nurse's~~ *jobseeker's* folder within the nurses' registry *or*
5 *referral agency*. It shall also be the duty of the person interviewing
6 the jobseeker to require the jobseeker to exhibit his or her license
7 as issued by the Board of Registered Nursing or the Board of
8 Vocational Nurse and Psychiatric Technician Examiners, with a
9 notation to be made on the application by the interviewer that the
10 license has been inspected and the date of expiration of the license.

11 *SEC. 10. Section 1812.529 of the Civil Code is amended to*
12 *read:*

13 1812.529. Each nurses' registry *or referral agency* shall
14 continuously maintain in its offices true and correct permanent log
15 sheets and other records ~~which~~ *that* shall disclose, in addition to the
16 other information required, the date and hour of the receipt by the
17 nurses' registry *or referral agency* of each order for a private duty
18 nurse, and the date and hour of the making or giving of each
19 assignment to the nurse by the nurses' registry *or referral agency*,
20 the name of the nurse assigned, the name of the patient and the
21 address where the nurse is assigned, the name of the attending
22 physician, the date the assignment is to start, the period of actual
23 service for each assignment, and the amount of the fee charged for
24 each assignment. No nurses' registry *or referral agency*, or his or
25 her agent or employees, shall make any false entry in those
26 records. The nurses' registry *or referral agency* shall maintain the
27 log sheets and records required by this section respectively for a
28 period of one year.

29 *SEC. 11. Section 1812.530 of the Civil Code is amended to*
30 *read:*

31 1812.530. (a) No nurses' registry *or referral agency* shall
32 accept, directly or indirectly, a registration fee of any kind.

33 (b) No nurses' registry *or referral agency* may take from a
34 ~~nurse~~ *jobseeker* a confession of judgment, or promissory note, or
35 an assignment of wages to cover its fees.

36 *SEC. 12. Section 1812.531 of the Civil Code is amended to*
37 *read:*

38 1812.531. No nurses' registry *or referral agency* shall divide
39 fees with any physician and surgeon, nurse, hospital, patient, or
40 any agent or employee of any of these.

1 *SEC. 13. Section 1812.532 of the Civil Code is amended to*
2 *read:*

3 1812.532. In the event that a nurses' registry *or referral*
4 *agency* collects from a ~~nurse~~ *jobseeker* a fee or expenses for an
5 assignment, and the ~~nurse~~ *jobseeker* fails to obtain the assignment;
6 or the ~~nurse~~ fails to be paid for the assignment, the nurses' registry
7 *or referral agency* shall upon demand therefor, repay to the ~~nurse~~
8 *jobseeker* the fee and expenses so collected. Unless repayment is
9 made within 48 hours after demand, the nurses' registry *or referral*
10 *agency* shall pay to the ~~nurse~~ *jobseeker* an additional sum equal to
11 the amount of the fee.

12 *SEC. 14. Section 1812.533 of the Civil Code is amended to*
13 *read:*

14 1812.533. (a) No nurses' registry *or referral agency* shall
15 make, or cause to be made, any false, misleading, or deceptive
16 advertisements or representations concerning the services ~~that~~
17 ~~registry will provide to nurses to be provided to jobseekers.~~

18 (b) (1) No nurses' registry *or referral agency* shall publish or
19 cause to be published any false, fraudulent, or misleading
20 information, representation, notice, or advertisements.

21 (2) All advertisements of a nurses' registry *or referral agency*
22 shall contain the correct name of the nurses' registry *or referral*
23 *agency* and *at least one of either of* the following:

24 (A) The street address of the registry's *or referral agency's*
25 place of business.

26 (B) The correct telephone number of the registry *or referral*
27 *agency* at its place of business.

28 (3) No nurses' registry *or referral agency* shall give any false
29 information or make any false promises or representations
30 concerning an assignment or employment to any ~~nurse~~ *jobseeker*
31 who registers or applies for an assignment or employment.

32 (4) No nurses' registry *or referral agency* shall, by its name,
33 advertisement, or any other representation, represent itself to be a
34 home health agency, as defined by subdivision (a) of Section 1727
35 of the Health and Safety Code, or to perform the services of a home
36 health agency. A nurses' registry *or referral agency* shall provide
37 a written disclosure to each individual receiving nursing services,
38 as defined in subdivision (a) of Section 1812.524, in his or her
39 place of residence stating that it does not perform the services of
40 a home health agency and clearly describing that it is a nurses'

1 registry or referral agency only and that any complaints against
2 licensed personnel providing a nursing service shall be brought to
3 the local district attorney and the Department of Consumer
4 Affairs. The address and telephone number of each agency and
5 board to which complaints are required to be submitted shall be
6 provided to all patients prior to the time they are under the care of
7 any nursing services personnel.

8 (5) Any person may refer complaints concerning nurses'
9 registries or referral agencies to the proper law enforcement
10 agency for action.

11 (c) Every nurses' registry or referral agency shall maintain a
12 record of all advertisements, correlated to show the date and the
13 publication in which the advertisement appeared, retrospectively
14 for a period of one year.

15 SEC. 15. Section 1264.1 is added to the Health and Safety
16 Code, to read:

17 1264.1. (a) A health facility may not use an employee on a
18 temporary basis when a permanent employee is available to work.

19 (b) Any health facility that uses an employee on a temporary
20 basis shall do all of the following:

21 (1) Commensurate with evaluations provided for permanent
22 employees, evaluate that employee prior to the employee starting
23 work, evaluate the employee again within two days of employment,
24 and thereafter, at a minimum, evaluate the employee as often as
25 permanent employees performing similar work are evaluated.

26 (2) Commensurate with orientations provided for permanent
27 employees, provide an orientation for that employee prior to the
28 employee starting work.

29 SEC. 16. Chapter 2.3 (commencing with Section 1400) of
30 Division 2 of the Health and Safety Code is repealed.

31 SEC. 17. Chapter 2.3 (commencing with Section 1400) is
32 added to Division 2 of the Health and Safety Code, to read:

33
34 CHAPTER 2.3. HEALTH CARE REFERRAL AGENCIES

35
36 Article 1. General Provisions

37
38 1400. As used in this chapter, the following definitions apply:

39 (a) "Covered Facility" means a general acute care hospital,
40 acute psychiatric hospital, or other acute care facility, or an

1 *extended care facility, skilled nursing facility, or intermediate care*
2 *facility, or a distinct part of a facility providing extended care*
3 *services, skilled nursing care, or intermediate care, that is located*
4 *in this state.*

5 (b) *“Referral agency” means a private, for-profit or nonprofit,*
6 *agency that is engaged in the business of referring workers to a*
7 *covered facility.*

8 1400.1. (a) *A referral agency may not refer workers to a*
9 *covered facility unless the referral agency has obtained a written*
10 *license as provided in this chapter.*

11 (b) *A referral agency may not refer a worker who is required to*
12 *be licensed or certified by the laws of this state to a covered facility*
13 *without ensuring that the worker is licensed or certified.*

14 1400.2. (a) *An application for a license or renewal of license*
15 *under this chapter shall be accompanied by a fee established by the*
16 *department. Each license shall expire 12 months from its date of*
17 *issuance and an application for renewal accompanied by the fee*
18 *shall be filed with the director not later than 10 days prior to the*
19 *date of expiration.*

20 (b) *The fee established pursuant to subdivision (a) shall be*
21 *sufficient to administer this chapter without the use of other state*
22 *resources, and shall be adjusted annually. Those adjustments shall*
23 *be rounded to the nearest whole dollar amount.*

24 1400.3. *A licensee under this chapter may not have a direct or*
25 *indirect financial interest in a covered medical facility doing*
26 *business with the licensee.*

27 1400.4. *A license application shall be submitted to the*
28 *department whenever any of the following circumstances occur:*

29 (a) *Change of ownership of the referral agency.*

30 (b) *Change of name of the referral agency.*

31 (c) *Change of location of the referral agency.*

32 1400.5. *A person or entity desiring to obtain a license shall*
33 *file with the department an application on forms furnished by the*
34 *department. The application shall contain all of the following:*

35 (a) *The name of the applicant, and if an individual, whether the*
36 *applicant has attained the age of 18 years.*

37 (b) *The name of the referral agency.*

38 (c) *The location of the referral agency.*

39 (d) *The business or occupation engaged in by each applicant,*
40 *and by each partner, officer, and director, for at least two years*

1 immediately preceding the filing of the application. In addition,
2 each person shall submit a statement setting forth whether he or
3 she has previously engaged in the operation of a referral agency,
4 whether he or she has been involved in, or the subject of, a refusal
5 or revocation of a referral agency license, and whether he or she
6 has been convicted of a crime other than a minor traffic offense.

7 (e) If the applicant is a corporation, the name and principal
8 business address of each officer and director of the corporation,
9 and for nonpublic corporations, the name and business address of
10 each stockholder owning 10 percent or more of the stock and the
11 name and business address of any corporation member who has
12 responsibility in the operation of the facility.

13 (f) If the applicant is a partnership, the name and principal
14 business address of each partner.

15 (g) Evidence of the right to occupy the premises where the
16 referral agency is to be located.

17 (h) A copy of the partnership agreement or the Articles of
18 incorporation, if applicable.

19 (i) A copy of the current organization chart.

20 (j) A schedule of fees to be charged and collected by the referral
21 agency, and a statement of the method by which each fee is to be
22 computed or determined.

23 (k) A declaration that the licensee will not have a financial
24 interest in a covered facility doing business with the referral
25 agency.

26 (l) Evidence satisfactory to the department that the applicant
27 demonstrates reputable and responsible character and the
28 capability to comply with this chapter.

29 (m) A copy of any contract entered into with a covered facility
30 during the prior 12 months.

31 1400.6. (a) A licensee desiring to voluntarily surrender his or
32 her license for cancellation or temporary suspension shall notify
33 the department in writing as soon as possible and, in all cases, at
34 least 30 days prior to the effective date of cancellation or
35 temporary suspension of the license.

36 (b) A license placed in temporary suspension pursuant to this
37 section may be reinstated by the department within 12 months of
38 the date of the voluntary suspension on receipt of an application
39 and evidence showing compliance with licensing requirements.

1 1400.7. (a) Upon verification of compliance with this
2 chapter and with the approval of the department, the department
3 shall issue the license to the applicant.

4 (b) If the applicant is not in compliance with this chapter, the
5 department shall deny the applicant a license. Immediately upon
6 the denial of a license, the department shall notify the applicant in
7 writing. Within 20 days of receipt of the department's notice, the
8 applicant may present his or her written petition for a hearing to
9 the department. The proceedings shall be conducted by the
10 department in accordance with Section 100171.

11 1400.8. Separate licenses are required for referral agencies
12 that are maintained on separate, noncontiguous premises.

13 1400.9. (a) Licenses issued pursuant to this chapter are not
14 transferable.

15 (b) The license or true copy thereof shall be conspicuously
16 posted in a prominent location accessible to public view.

17 1401. (a) The licensee shall notify the department in writing
18 within 10 days when a change of stockholder owning 10 percent
19 or more of the nonpublic corporate stock occurs. The notification
20 shall include the name and principal mailing addresses of the new
21 stockholder.

22 (b) When a change of agency manager occurs, the licensee
23 shall notify the department, in writing, within 10 days of that
24 change. The notification shall include the name of the new agency
25 manager.

26 (c) Each licensee shall notify the department within 10 days, in
27 writing, of any change of the mailing address of the licensee. The
28 notification shall include the new mailing address of the licensee.

29 (d) When a change in the principal officer of a corporate
30 licensee, chairperson, president, or general manager occurs, the
31 licensee shall notify the department, in writing, within 10 days of
32 that change. The notification shall include the name and principal
33 business address of the new officer.

34
35 Article 2. Prerequisites For Referrals
36

37 1402. (a) A referral agency may not refer a health care
38 practitioner certified or licensed in California to a covered facility
39 on a temporary basis unless that health care practitioner has a

1 valid license or certificate issued by the state that is not a
2 temporary or interim license or certificate.

3 (b) A referral agency may not refer a health care practitioner
4 certified or licensed in a state other than California to a covered
5 facility on a temporary basis unless that health care practitioner
6 also has a valid license or certificate that is not a temporary or
7 interim license or certificate.

8 1402.1. Prior to referring a worker, other than a certified or
9 licensed health care practitioner, to a covered facility on a
10 temporary basis, the referral agency shall ensure that a
11 background check is conducted for all of the following:

12 (a) Unprofessional conduct, that includes, but is not limited to,
13 all of the following:

14 (1) Incompetence or gross negligence in carrying out usual
15 certified or licensed health care functions.

16 (2) A conviction of practicing medicine without a license in
17 violation of Chapter 5 (commencing with Section 2000) of
18 Division 2 of the Business and Professions Code.

19 (3) Denial of licensure, revocation, suspension, restriction, or
20 any other disciplinary action against a health care professional
21 license or certificate by any state or territory of the United States
22 or by any government agency.

23 (4) Disciplinary action by any previous employer.

24 (b) Conviction of a felony or of any offense substantially related
25 to the worker's qualifications, functions, and duties.

26 (c) Aiding or assisting, or agreeing to aid or assist, any person
27 or persons, whether a licensed physician or not, in the
28 performance of, or arranging for, a violation of Article 12
29 (commencing with Section 2220) of Chapter 5 of Division 2 of the
30 Business and Professions Code.

31 (d) Except for good cause, the knowing failure to protect
32 patients by failing to follow applicable infection control
33 guidelines, thereby risking transmission of blood-borne infectious
34 diseases.

35 (e) Obtaining or possessing in violation of law, or prescribing,
36 or except as directed by a licensed physician and surgeon, dentist,
37 or podiatrist administering to himself or herself, or furnishing or
38 administering to another, any controlled substance as defined in
39 Division 10 (commencing with Section 11000) or any dangerous

1 *drug or dangerous device as defined in Section 4022 of the*
2 *Business and Professions Code.*

3 *(f) Using any controlled substance as defined in Division 10*
4 *(commencing with Section 11000), or any dangerous drug or*
5 *dangerous device as defined in Section 4022 of the Business and*
6 *Professions Code, or alcoholic beverages, to an extent or in a*
7 *manner dangerous or injurious to himself or herself, any other*
8 *person, or the public or to the extent that the use impairs his or her*
9 *ability to conduct with safety to the public his or her job duties.*

10 *(g) Being convicted of a criminal offense involving the*
11 *prescription, consumption, or self-administration of any of the*
12 *substances described in subdivision (f), or the possession of, or*
13 *falsification of a record pertaining to, the substances described in*
14 *subdivision (f).*

15 *(h) Being committed or confined by a court of competent*
16 *jurisdiction for intemperate use of or addiction to the use of any*
17 *of the substances described in subdivision (f).*

18 *(i) Falsifying, or making grossly incorrect, grossly*
19 *inconsistent, or unintelligible entries in any hospital, patient, or*
20 *other record pertaining to the substances described in subdivision*
21 *(f).*

22 *1402.2. Prior to referring a worker to a covered facility on a*
23 *temporary basis, the referral agency shall provide to the covered*
24 *facility a report of the worker's credentials and prior health care*
25 *experience that is not more than 30 days old.*

26 *1402.3. In addition to the requirement of Section 1402.2,*
27 *prior to referring a worker other than a certified or licensed health*
28 *care practitioner to a covered facility on a temporary basis, the*
29 *referral agency shall provide the facility with a report of the*
30 *background check conducted pursuant to Section 1402.1 that is*
31 *not more than 30 days old.*

32
33 *Article 3. Penalties*
34

35 *1403. The department may suspend or revoke a license issued*
36 *under this chapter for a violation of this chapter or rules and*
37 *regulations relating to this chapter adopted by the department. In*
38 *addition, the department shall assess a civil penalty in the amount*
39 *of fees, income, or revenue received by a licensee that is in*
40 *violation of this chapter or rules and regulations relating to this*

chapter adopted by the department. Proceedings to suspend or revoke a license shall be conducted by the department pursuant to Section 100171.

1403.1. A violation of this chapter or rules and regulations relating to this chapter adopted by the department by a person licensed pursuant to this division or a person certificated or licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code may be grounds for suspension or revocation of the person's license.

1403.2. A person or entity that violates this chapter is liable for a civil penalty in the amount of the remuneration, fees, income, or revenue illegally received plus the amount of wages paid to an employee hired in violation of this chapter, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any person acting on behalf of himself or herself or the general public, in any court of competent jurisdiction. If this action results in a recovery of penalties or the cessation of activities that violate this article, the court shall award attorney's fees and costs to the Attorney General or person who brought suit.

1403.3. All civil penalties collected pursuant to this article shall be paid to the State Treasury.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~added to Division 2 of the Labor Code, to read:~~

~~PART 11.5. HEALTH CARE REFERRAL AGENCIES~~

~~CHAPTER 1. GENERAL PROVISIONS~~

~~2693.1. As used in this part:~~

~~(a) "Covered facility" means an acute care facility, extended care facility, skilled nursing facility, or intermediate care facility;~~

~~or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care that is located in this state.~~

~~(b) “Department” means the Department of Industrial Relations.~~

~~(c) “Director” means the Director of Industrial Relations.~~

~~(d) “Referral agency” means a private, for-profit or nonprofit agency that is engaged in the business of referring workers to a covered facility.~~

~~2693.2. (a) A referral agency that has its principal place of business located outside this state may not refer workers to a covered facility unless it has obtained a written license as provided in this part.~~

~~(b) A referral agency that is required to be licensed pursuant to subdivision (a) may not refer a worker who is required to be licensed or certified by the laws of this state to a covered facility without providing all information that is required to obtain a license or certification for that worker to the department and the appropriate licensing or certifying agency, at least 10 days prior to the referral of the worker.~~

~~(c) A person or entity licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code may not employ a worker referred by a referral agency which is required to be licensed pursuant to subdivision (a) if that referral agency has not obtained a license.~~

~~2693.3. (a) An application for a license or renewal of license under this chapter shall be accompanied by a fee established by the department. Each license shall expire 12 months from its date of issuance and an application for renewal accompanied by the fee shall be filed with the director not later than 10 days prior to the date of expiration.~~

~~(b) The fee established pursuant to subdivision (a) shall be sufficient to administer this chapter without the use of other state resources, and shall be adjusted annually. Those adjustments shall be rounded to the nearest whole dollar amount.~~

~~2693.4. A licensee under this chapter may not have a direct or indirect financial interest in a medical facility doing business with the licensee.~~

~~2693.5. A license application shall be submitted to the department whenever any of the following circumstances occur:~~

~~(a) Change of ownership of the referral agency.~~

~~(b) Change of name of the referral agency.~~

~~(c) Change of location of the referral agency.~~

~~2693.6.— A person or entity desiring to obtain a license shall file with the department an application on forms furnished by the department. The application shall contain all of the following:~~

~~(a) Name of the applicant, and if an individual, whether the applicant has attained the age of 18 years.~~

~~(b) Name of the referral agency.~~

~~(c) The location of the referral agency.~~

~~(d) The business or occupation engaged in by each applicant, and by each partner, officer, and director, for at least two years immediately preceding the filing of the application. In addition, each person shall submit a statement setting forth whether he or she has previously engaged in the operation of a referral agency, whether he or she has been involved in, or the subject of, a refusal or revocation of a referral agency license, and whether he or she has been convicted of a crime other than a minor traffic offense.~~

~~(e) If the applicant is a corporation, the name and principal business address of each officer and director of the corporation; and for nonpublic corporations, the name and business address of each stockholder owning 10 percent or more of the stock and the name and business address of any corporation member who has responsibility in the operation of the facility.~~

~~(f) If the applicant is a partnership, the name and principal business address of each partner.~~

~~(g) Evidence of the right to occupy the premises where the referral agency is to be located.~~

~~(h) A copy of the partnership agreement or the articles of Incorporation, if applicable.~~

~~(i) A copy of the current organization chart.~~

~~(j) A schedule of fees to be charged and collected by the referral agency, and a statement of the method by which each fee is to be computed or determined.~~

~~(k) A declaration that the licensee will not have a financial interest in a health facility doing business with the referral agency.~~

~~(l) Evidence satisfactory to the department that the applicant demonstrates reputable and responsible character and the capability to comply with this chapter.~~

~~2693.7.— (a) A licensee desiring to voluntarily surrender his or her license for cancellation or temporary suspension shall notify~~

1 ~~the department in writing as soon as possible and, in all cases, at~~
2 ~~least 30 days prior to the effective date of cancellation or~~
3 ~~temporary suspension of the license.~~

4 ~~(b) A license placed in temporary suspension pursuant to this~~
5 ~~section may be reinstated by the department within 12 months of~~
6 ~~the date of the voluntary suspension on receipt of an application~~
7 ~~and evidence showing compliance with licensing requirements.~~

8 ~~2693.8. (a) Upon verification of compliance with this~~
9 ~~chapter and with the approval of the department, the department~~
10 ~~shall issue the license to the applicant.~~

11 ~~(b) If the applicant is not in compliance with this chapter, the~~
12 ~~department shall deny the applicant a license. Immediately upon~~
13 ~~the denial of a license, the department shall notify the applicant in~~
14 ~~writing. Within 20 days of receipt of the department's notice, the~~
15 ~~applicant may present his or her written petition for a hearing to~~
16 ~~the department. The proceedings shall be conducted by the~~
17 ~~department in accordance with Section 100171 of the Heath and~~
18 ~~Safety Code.~~

19 ~~2693.9. Separate licenses are required for referral agencies~~
20 ~~that are maintained on separate, noncontiguous premises.~~

21 ~~2694.1. Licenses issued pursuant to this part are not~~
22 ~~transferable.~~

23 ~~2694.2. (a) The licensee shall notify the department in~~
24 ~~writing within 10 days when a change of stockholder owning 10~~
25 ~~percent or more of the nonpublic corporate stock occurs. The~~
26 ~~notification shall include the name and principal mailing addresses~~
27 ~~of the new stockholder.~~

28 ~~(b) When a change of agency manager occurs, the licensee shall~~
29 ~~notify the department, in writing, within 10 days of that change.~~
30 ~~The notification shall include the name of the new agency~~
31 ~~manager.~~

32 ~~(c) Each licensee shall notify the department within 10 days, in~~
33 ~~writing, of any change of the mailing address of the licensee. The~~
34 ~~notification shall include the new mailing address of the licensee.~~

35 ~~(d) When a change in the principal officer of a corporate~~
36 ~~licensee, chairperson, president, or general manager occurs, the~~
37 ~~licensee shall notify the department, in writing, within 10 days of~~
38 ~~that change. The notification shall include the name and principal~~
39 ~~business address of the new officer.~~

CHAPTER 2. ~~PENALTIES~~

~~2694.5. The department may suspend or revoke a license issued under this part for a violation of this part or rules and regulations relating to this part that are promulgated by the department. In addition, the department shall assess a civil penalty in the amount of fees received by a licensee as a result of a violation of this part or rules and regulations relating to this part that are promulgated by the department. Proceedings to suspend or revoke a license shall be conducted by the department pursuant to Section 100171 of the Health and Safety Code.~~

~~2694.6. A violation of this part or rules and regulations relating to this part that are promulgated by the department by a person licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code or a person certificated or licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code may be grounds for suspension or revocation of the person's license.~~

~~2694.7. A person or entity that violates Section 2693.2 is liable for a civil penalty in the amount of the remuneration illegally received or the amount of wages paid to an employee hired in violation of this part, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction.~~